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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,925	12/06/2001	Joel D. Peshkin	01CON260P	4780
25700	7590	10/03/2005	EXAMINER	
FARJAMI & FARJAMI LLP 26522 LA ALAMEDA AVENUE, SUITE 360 MISSION VIEJO, CA 92691				HAMANN, JORDAN J
ART UNIT		PAPER NUMBER		
2667				

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/008,925	PESHKIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jordan Hamann	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 06 December 2001.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-35 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 27-29 is/are allowed.
- 6) Claim(s) 1-12, 14-26 and 30-35 is/are rejected.
- 7) Claim(s) 13 and 26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 December 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 5A reference character 518 and Figure 5C reference character 565. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: page 22 line 7 reference character 318, line 25 reference character 320, and page 26 line 11 reference character 5565. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

The drawings are objected to because on page 9 line 8 the reference character 140 is used for central site modem instead of reference character 128, on page 12 line 20 reference character 332 is used for modem port instead of reference character 330, on page 23 line 1 reference character 326 is used for step 526. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objections to the drawings will not be held in abeyance.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26, 30, and 32-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26 is missing a word between "said" and "runs". The missing element renders the claim indefinite.

Claim 30 is dependent upon claim 21, which recites the limitation of a 32K data rate, whereas claim 30 recites the limitation of 8K, 16K, 32K, and 64K data rates. It is unclear which data rate is intended to be claimed. Additionally claim 21 is an auto detector while claim 30 is an auto detection method.

Claims 32-34 are dependent upon claim 31. Claim 31 recites a limitation of an 8K data rate. Claim 32 recites a limitation of a 16K data rate, and claims 33 and 34 recite a limitation of a 32K data rate. It is unclear which data rate is intended to be claimed in the dependent claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Räsänen (US 6,192,055) in view of Simpson (RFC 1662).

With respect to claims 1 and 2, Räsänen discloses an auto detection method for use by an answering device for matching a communication protocol of a calling device with one of a plurality of communication protocols being supported by said answering device, said auto detection method comprising the steps of:

receiving a predetermined amount of received data by said answering device from said calling device (column 2 lines 62-64), wherein said data are indicative of said communication protocol of said calling device (column 2 lines 66-67); and

analyzing said received data to determine one of said plurality of communication protocols (column 2 lines 65-67).

Räsänen does not disclose transmitting a pre-determined data pattern (mark idle) by said answering device to said calling device during said steps of receiving and analyzing.

Simpson discloses in RFC 1662 that certain types of circuit-switched links require the use of mark idle (continuous ones) (page 11 last paragraph to page 12 first paragraph).

Räsänen and Simpson are analogous art because they are from the same field of endeavor of data calls over an ISDN network.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to transmit mark idle from the answering device of Räsänen during receiving and analyzing steps.

The motivation for doing so would have been to maintain the connection between the calling and answering device to give the answering device sufficient time to analyze the received data to determine the communication protocol.

Therefore, it would have been obvious to combine Simpson with Räsänen to obtain the invention as specified in claims 1 and 2.

With respect to claim 5, Räsänen in view of Simpson discloses the auto detection method of claim 1, wherein said analyzing step determines that said received data matches an ISDN protocol (Figure 8).

With respect to claim 12, Räsänen in view of Simpson discloses the auto detection method of claim 1, further comprising the step of configuring said answering

device according to said one of said plurality of protocols determined in said analyzing step (column 3 lines 1-3).

With respect to claim 3, Räsänen in view of Simpson discloses the auto detection method of claim 1, wherein said one of said plurality of communication protocols is V.110 protocol including a plurality of V.110 data rates, and said analyzing step determines one of said plurality of V.110 data rates (Räsänen column 3 lines 37-38).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Räsänen (US 6,192,055) in view of Simpson (RFC 1662) further in view of ITU-T recommendation V.110.

With respect to claim 4 Räsänen in view of Simpson discloses the auto detection method of claim 3, see 103 rejection above, however does not disclose expressly wherein said analyzing step further determines a line speed by reading a byte of said received data.

ITU-T Recommendation V.110 discloses the V.110 frame structure, wherein octet 5, the E byte, contains the line speed data (pages 3-4).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to determine the line speed by reading the E byte of the V.110 frame.

The motivation for doing so would have been that the V.110 protocol specifies the line speed information to be in the E byte of the V.110 frame.

Therefore, it would have been obvious to combine the V.110 protocol with Räsänen to obtain the invention as specified in claim 4.

Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Räsänen (US 6,192,055) in view of Simpson (RFC 1662) further in view of Birkeland (US 6,658,026).

Räsänen in view of Simpson discloses the auto detection method of claim 1, see 103 rejection above, however does not disclose expressly how the V.110 protocol match is determined.

Birkeland discloses a method for recognizing V.110 synchronization pattern. While Birkeland does not disclose determining a match if eight 0x7F bytes are found in the received data for 8K data rate, he does disclose searching for 0x7F bytes in the received data for the 8K data rate. He similarly discloses searching for 0x3F bytes for 16K data rate and 0x0F bytes for 32k data rate (Appendix B). The number of bytes to match is not given patentable weight. Searching for particular bytes encompasses matching a plurality of bits of a plurality of octets to a predetermined pattern.

Räsänen and Birkeland are analogous art because they are from the same field of endeavor of recognizing V.110 synchronization frames.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art is use the method of Birkeland in the answering device of Räsänen to determine if V.110 frames are present and at what data rate.

The motivation for doing so would have been to quickly search for the V.110 synchronization pattern (column 2 lines 59-60).

Therefore, it would have been obvious to combine Birkeland with Räsänen to obtain the invention as specified in claims 6-11.

With respect to claims 14-25, the apparatus claims are interpreted and rejected for the same reason as set forth in the method claims 1-12, respectively.

Claims 31-33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Räsänen (US 6,192,055) in view of Birkeland (US 6,658,026) further in view of ITU-T Recommendation V.110.

Räsänen discloses an auto detection method for use by an answering device for matching a communication protocol of a calling device with a V.110 communication protocol being supported by said answering device, said V.110 communication protocol having an 8K data rate, a 16K data rate, or a 32K data rate, said auto detection method comprising the step of: buffering a predetermined amount of received data by said answering device from said calling device (column 2 lines 62-64), wherein said data are indicative of said communication protocol of said calling device (column 2 lines 66-67).

Räsänen does not disclose how the received data is matched to the V.110 protocol.

Birkeland discloses a method of searching for a V.110 synchronization frame characterized by performing an AND operation between a first element and check element (column 3 lines 21-24) and comparing the result to a predetermined test pattern.

Birkeland also discloses that specific bits must contain specific values for each data rate of a V.110 protocol.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the method of Birkeland in the answering device of Räsänen to determine if the protocol used by the calling device is V.110.

The motivation for doing so would have been matching received data to a V.110 protocol by checking for bits having a specific value as described in the V.110 protocol.

Therefore, it would have been obvious to combine Birkeland with Räsänen in view of ITU-T Recommendation V.110 to obtain the invention as specified in claims 31-33 and 35.

#### ***Allowable Subject Matter***

Claims 13 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 27-29 are allowed.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abdelmoultalib et al. (US 5,184,348) discloses an ISDN multiprotocol communications controller.

Blanc et al. (US 5,359,709) discloses an apparatus and method for providing multiple operating configurations in data circuit terminating equipment.

Räsänen (US 6,351,470) discloses a method for adapting the fixed network protocols to a mobile communications network.

Jain and Wills discusses aspects of the terminal adapter described in ITU-T Recommendation V.110.

Moughton discusses terminal adapters and the ITU-T Recommendation V.110.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Hamann whose telephone number is (571) 272-8564. The examiner can normally be reached on Monday-Friday 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is (0571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJH

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2000  
9/3/05